

A C T S
OF THE FIFTH
GENERAL ASSEMBLY
OF THE
S T A T E
O F
N E W - J E R S E Y,

At a SESSION begun at TRENTON on the 24th Day of
October, 1780, and continued by Adjournments.

T R E N T O N:
Printed by ISAAC COLLINS, Printer to the State.
M.DCC.LXXXI.

OF THE STATE OF NEW-JERSEY.

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In the County of *Gloucester*, *Bodo Otto*, jun. Esquire.

In the County of *Salem*, the Reverend *William Schenck*.

In the County of *Cape-May*, *Henry-Young Townsend*, Esquire.

In the County of *Hunterdon*, *Nathaniel Hunt*, Esquire.

In the County of *Morris*, Colonel *Ellis Cook*.

In the County of *Cumberland*, *Joel Fithian*, Esquire.

In the County of *Sussex*, *Edward Dunlap*.

And the said Agents shall keep their Offices open until the first Day of *December* next ensuing, and no longer; and in case any of the Persons aforesaid shall neglect or refuse to accept the Appointment, or remove out of the County after the Acceptance thereof, or by Death or by Disability should be rendered incapable of exercising the Office aforesaid, it shall and may be lawful for the Representatives of the County, or a Majority of them, wherein such Vacancy shall happen, as soon as convenient after their Knowledge thereof, to supply the Vacancy, and report their Appointment to the Treasurer as soon as possible; and the Person so appointed shall be vested with the same Powers, perform the like Duties, and be entitled to equal Rewards with those appointed to that Service in this Act, as though he had been named therein.

Vacancies,
how to be
supplied.

5. AND BE IT FURTHER ENACTED, That the Certificates for Money borrowed on the Faith of this State, as pledged in and by Virtue of this Act, shall be given payable in three Years from their Date, bearing an Interest of *Seven per Centum per Annum*, and that the said Certificates shall not be subjected to the Imposition of any Tax or Taxes. And each and every of the Agents acting by Virtue of this Act, shall be entitled to retain in their Hands *One per Centum* for their Trouble, on all Money they may borrow and pay, agreeably to the Directions of this Act.

Certificates to
be payable in
three years,
and bear an
Interest of
Seven per Cent.

Passed at Trenton, January 8, 1781.

C H A P. XIII.

An ACT for the regulating, training, and arraying of the Militia, and for providing more effectually for the Defence and Security of the State.

WHEREAS the several Laws heretofore made for the Government of the Militia, and for the Purpose of directing the internal Force of the State to the Preservation and Safety of the same, have been found inadequate to these important Purposes, and have become, from their Number and Diversity, difficult to be understood and executed; Therefore,

Preamble.

SECT. 1. BE IT ENACTED by the Council and General Assembly of this State, and it is hereby Enacted by the Authority of the same, That from and after the Publication of this Act, the Militia of this State shall be divided into three Brigades, as follows: The Militia of the Counties of *Bergen*, *Essex*, *Morris*, *Sussex*, and of those Parts of the Counties of *Middlesex* and *Somerset* lying on the Northern and Eastern Side of *Raritan* River, and of the South Branch of the same, shall compose the upper Brigade; the Militia of the Counties of *Monmouth*, *Hunterdon* and *Burlington*, and

Militia, how
to be divided.

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and of those Parts of the Counties of *Middlesex* and *Somerset* lying on the Southern and Western Side of the said River *Raritan*, and of the South Branch of the same, shall compose the middle Brigade; and the Militia of the Counties of *Gloucester*, *Salem*, *Cape-May* and *Cumberland*, shall compose the lower Brigade.

Brigades, by
whom to be
commanded.

2. AND BE IT FURTHER ENACTED, That each Brigade shall be commanded by a Brigadier or Colonel Commandant, who shall be the eldest Colonel, and if there is no Colonel, the eldest Lieutenant-Colonel of the Regiments which compose the Brigade, to be determined by the Date of their several Commissions; which Brigadiers, Colonels, or Lieutenant-Colonels Commandant, shall be empowered to appoint a Major of Brigade, to rank as Major of the Militia, and receive Pay on the Certificate of his Brigadier, Colonel or Lieutenant-Colonel Commandant.

Regiments,
how to be
officered.

3. AND BE IT FURTHER ENACTED, That each Regiment or Battalion shall be officered with one Lieutenant-Colonel (except where a Colonel is already appointed) and one Major; and also with an Adjutant, who shall be taken from the Line, and rank as First Lieutenant, and when in Service be entitled to the Pay and Rations of a Captain; one Quartermaster, who shall also be taken from the Line, rank with Lieutenants, and receive like Pay and Rations when in Service; and when Circumstances will admit, a Surgeon; which Regimental Staff-Officers shall be appointed by the Field Officers or a Majority of them; and the Commanding Officer of each Regiment or Battalion shall appoint a Sergeant-Major. PROVIDED ALWAYS, That where two Majors have been heretofore appointed and commissioned in any Regiment or Battalion both shall be continued, but Vacancies happening in the Office of Second Major, shall not hereafter be supplied.

Provido.

Treasurer to
be appointed
to each Regi-
ment.

4. AND BE IT FURTHER ENACTED, That the Field Officers of each Regiment or Battalion within this State, in Conjunction with the commissioned Officers of the several Companies of their respective Regiments or Battalions, shall, immediately after the Publication of this Act, appoint one reputable Freeholder, not a Military Officer, within the District of their Regiment or Battalion, to act as Treasurer to the same; who, on Notification of his Appointment, shall repair to some Justice of the Peace and take an Oath for the due Performance of his Office, whose Duty it shall be to receive all the Monies arising from the Fines and Forfeitures directed to be raised or imposed by Virtue of this Act, and not otherwise disposed of, and to pay such Draughts as may be made from Time to Time by the Commanding Officer of the Regiment or Battalion, or of the several Companies which compose the Regiment or Battalion to which he belongs. PROVIDED NEVERTHELESS, That the County of *Monmouth* shall, on Account of its present Circumstances, have one common Treasurer to the three Regiments within the same, to be appointed by a Majority of the Officers of the said Regiments jointly, whose Duties, Powers, and Compensation shall be the same in all Cases respecting the said three Regiments with those of the Treasurer of any particular Regiment appointed as aforesaid, excepting that he shall not discharge the Draught of either of the Commanding Officers of the said Regiments to any other Amount than in Proportion to the usual Numbers who turn out from the said Regiments respectively,

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respectively, in the Military Service of their Country, a Return of which Numbers shall be by the Officers appointing the Treasurer as aforesaid, the said Treasurer from Time to Time, as Occasion may require.

5. AND BE IT ENACTED, That the Regimental Treasurer for the Time being, shall keep proper and distinct Accounts of the Monies arising from the Fines and Forfeitures of the Field and Staff-Officers, and of the Officers and Privates of each Company which compose the Regiment, entered separately in a Book kept by him for that Purpose, keeping proper Vouchers for all Sums of Money he may pay out on the Draughts of the Officers aforesaid, and render an Account of the Monies received and paid out as aforesaid every six Months, to the Board of Officers appointed for that Purpose; and the said Treasurer shall be entitled to *One per Centum* for all Monies he may receive or pay out.

Regimental Treasurers to keep and render Accounts:

Wages:

6. AND BE IT ENACTED, That the Field and other commissioned Officers of each Regiment or Battalion are hereby constituted a Board, vested with full Authority to examine and adjust the Accounts of the Regimental Treasurer, and are hereby required to meet once in six Months for that Purpose, at some Time and Place, of which all Parties shall be timely notified; and in case of Mal-practice, Embezzlement, or any sufficient Default, the said Board of Officers are required to displace the said Treasurer and appoint another in his Room; which Successor in Office is hereby authorized and empowered to prosecute the Defaulter for any Sum or Sums of Money remaining in his Hands belonging to the Regiment, in any Court where the same may be cognizable, with Costs of Suit.

Field and Commission Officers, a Board to examine Accounts

7. AND BE IT FURTHER ENACTED, That each Company shall be officered with a Captain, a Lieutenant, and an Ensign, and also with four Sergeants and four Corporals; to be elected by the Companies respectively; and the commissioned Officers shall appoint for the same a Drummer and a Fifer; and in case of any Vacancy or Vacancies happening amongst the commissioned Officers of any Company, the Captain or Commanding Officer of the same shall, within thirty Days thereafter, call his Company together, and the Officers and Privates, when met, shall appoint a Clerk to manage the Election, and certify the same when made, and by Plurality of Voices elect such Officer or Officers as may be wanting; and in case no commissioned Officer should remain in any Company, the Commanding Officer of the Regiment or Battalion shall in the same Time, by Advertisements set up in at least three of the most publick Places within the Bounds of the said Company, call them together for the Purpose aforesaid, and himself attend to direct and regulate the Election. PROVIDED ALWAYS, That where two Lieutenants have been heretofore appointed and commissioned in any Company, both shall be continued, but Vacancies happening in the Office of Second Lieutenant shall not hereafter be supplied.

Companies, how to be officered, and

Vacancies supplied:

Proviso.

8. AND BE IT FURTHER ENACTED, That all Vacancies happening among the non-commissioned Officers of any Company shall be supplied as often as necessary by such Company when assembled for training, and if the Company refuse to choose such non-commissioned Officers, they shall be appointed by the commissioned Officers of the Company; and if any Person refuse to act as a Sergeant, Corporal, Drum-

Vacancies in the non-commissioned Officers, &c. and Penalty for refusing to act as one.

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mer or Eifer, when duly elected or appointed for that Purpose, he shall be fined the Sum of *Three Pounds*, to be recovered and applied as herein after is directed. PROVIDED ALWAYS, That no Person shall be fined more than once in the Space of a Year for refusing to serve in any Office to which he may be elected or appointed.

Proviso.

Officers, how
commissioned,
&c.

To take the
Oaths.

9. AND BE IT FURTHER ENACTED, That the said Brigade, Field, and other commissioned Officers and Staff-Officers respectively, shall be commissioned by the Governor or Commander in Chief for the Time being, upon Certificates of their due Election or Appointment from those who elect or appoint them respectively, or by their Order; and the non-commissioned Officers of Companies shall act under Warrants from the Captain or Commanding Officer of the Company to which they belong. PROVIDED ALWAYS, That every Officer elected as aforesaid, previous to his receiving his Commission, shall take and subscribe the Oaths of Abjuration and Allegiance, as prescribed in an Act, intitled, *An Act for the Security of the Government of New-Jersey*, passed the nineteenth Day of September, One Thousand Seven hundred and Seventy-six, before some Person authorized to administer the same, which shall be certified by the same Persons, and in the same Certificate with his Election into Office; and if any Person elected or appointed an Officer as aforesaid shall neglect to take the Oaths aforesaid within thirty Days after his said Election or Appointment, his Office shall be deemed vacant, and a new Choice be made.

Captains to
keep Lists.

Exemptions.

10. AND BE IT ENACTED, That the Captain or Commanding Officer of each Company shall keep a true and perfect List or Roll of all effective Men between the Ages of sixteen and fifty Years, residing within the District of such Company. PROVIDED ALWAYS, That the Delegates representing this State in the Congress of the United States, the Members of the Legislative-Council and General Assembly, the Judges and Justices of the Supreme and Inferior Courts, the Judge of the Court of Admiralty, the Attorney-General, the Secretary, the Treasurer, the Auditor of Accounts, the Clerks of the Council and General Assembly, the Clerks of the Courts of Record, the Governor's private Secretary, the Superintendant of Purchases, the County Contractors, Postmasters, Ministers of the Gospel of every Denomination, the President, the Professors and Tutors of Colleges, Sheriffs, Coroners, one Constable for each Township, to be determined by the Court of Quarter Sessions of the County, two Ferry-men for each publick Ferry on the *Delaware* below the Falls at *Trenton*, and one for every other publick Ferry in this State, Slaves, and every Person exempted by any particular Law of this State, shall not be borne on any such Lists or Rolls, or be subject to Military Duty.

Arms and Ac-
countments
to be procured
by each Man.

Penalty on
Neglect.

Proviso.

11. AND BE IT ENACTED, That every Person enrolled as aforesaid shall constantly keep himself furnished with a good Musket well fitted with a Bayonet, a Worm, a Cartridge-Box, twenty-three Rounds of Cartridges sized to his Musket, a Priming-Wire, Brush, six Flints, a Knap-sack and Canteen, under the Forfeiture of *Seven Shillings and Six-pence* for Want of a Musket, and *One Shilling* for Want of any other of the aforesaid Articles, whenever called out to Training or Service; to be recovered and applied as herein after is directed. PROVIDED ALWAYS, That if any Person be furnished as aforesaid with a good Rifle-Gun,

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Gun, the Apparatus necessary for the same, and a Tomahawk, it shall be accepted in Lieu of the Musket and the Bayonet and other Articles belonging thereto.

12. AND BE IT ENACTED, That each Person enrolled as afore said, shall also keep at his Place of Abode one Pound of good merchantable Gunpowder and three Pounds of Ball sized to his Musket or Rifle, and for Want of either shall forfeit the Sum of *Three Shillings*, to be recovered and applied as herein after is directed. *Ammunition to be kept by each Man.* PROVIDED ALWAYS, That if any Person enrolled as afore said shall, by a Majority of the commissioned Officers of the Company to which he may belong, be deemed and adjudged unable to purchase the Arms, Accoutrements, and Ammunition above specified, he shall be exempted from the Forfeiture for any Deficiency therein until he can procure them, or they are provided for him. *Proviso.*

13. AND BE IT FURTHER ENACTED, That the Captain or Commanding Officer of each Company shall, once in every four Months, order a Sergeant to call at the Place of Abode of each Person enrolled as afore said, for the Purpose of examining the State of his Arms, Accoutrements, and Ammunition, of which the Sergeant shall make exact report to the Officer issuing the Orders, and if the Captain shall neglect his Duty herein he shall forfeit *Six Pounds*; and if any Sergeant shall neglect his Duty in this Respect he shall forfeit and pay for each Offence the Sum of *Three Pounds*, to be recovered and applied as herein after is directed; and for this Service he shall receive the Sum of *Three Shillings and Nine-pence* for each Day he shall be necessarily engaged therein, to be paid by the Treasurer of the Regiment, on an Order from the Captain or Commanding Officer of the Company, certifying the Number of Days the Sergeant was on the Duty, the Treasurer taking the Sergeant's Receipt on the Back of the Order for the same. *Sergeants to examine and report State of Arms, &c.* *Penalty for Neglect.* *Wages for this Service.*

14. AND BE IT FURTHER ENACTED, That each Company shall assemble, properly armed and accoutred, not later than ten o'Clock in the Forenoon of the first Monday in the Months of *April* and *September* every Year, at such Place as the Commanding Officer of the Company shall appoint, and there spend the Remainder of the Day in Training and Exercise, and that the Penalty in case of Absence shall be as follows: On a Captain, *Three Pounds*; on a Lieutenant or Ensign, *Forty Shillings*; on a non-commissioned Officer or Private, any Sum not under *Five Shillings* nor more than *Forty Shillings*; and in due Proportion for attending later than the Hour above limited. *Days of mustering in Companies.* *Penalty in case of Absence.*

15. AND BE IT FURTHER ENACTED, That each Regiment or Battalion shall assemble, properly armed and accoutred, twice in a Year, *videlicet*, On the first Monday in *June* and *November*, at such Hour and Place as the Field Officers, or a Majority of them, shall appoint, for the Purpose of Training and Exercise; and the Colonel or Commanding Officer, after parading his Regiment or Battalion, shall require from the Captain or Commanding Officer of each Company a Return of the commissioned and non-commissioned Officers and Privates of his Company, and a State of their Arms, Accoutrements, and Ammunition; and if the Captain or Commanding Officers of Companies shall neglect or refuse to make such Return, they shall forfeit for each Neglect or Refusal *Days of Regimental Musters.* *Returns of Companies to be required and made.*

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Forfeitures. Refusal the Sum of *Six Pounds* ; and the Penalty in case of Absence on the Day of Regimental Training or Review shall be as follows : on a Colonel or Lieutenant-Colonel Commandant, *Ten Pounds* ; on a Lieutenant-Colonel, *Eight Pounds* ; on a Major, *Six Pounds* ; on a Captain or Adjutant, *Five Pounds* ; on a Lieutenant, Quartermaster, or Ensign, *Three Pounds* ; on non-commissioned Officers and Privates, any Sum not less than *Ten Shillings* nor more than *Three Pounds* ; and in due Proportion for attending later than the Hour specified in the Order for Meeting ; to be recovered and applied as herein after is directed. PRO-
PROviso. VIDED ALWAYS, That if the local Situation of the Companies composing any Regiment or Battalion be such as may render it inconvenient to assemble the Whole at the same Time and Place, it shall and may be lawful for the Field Officers, or a Majority of them, to assemble such Regiment or Battalion by Parts, at different Times, and in different Places, each Part being assembled twice in a Year.

Returns of 16. AND BE IT FURTHER ENACTED, That the Colonel or Com-
Regiments to manding Officer of each Regiment or Battalion shall make Returns of
be made and his Regiment or Battalion, and of the State of their Arms, Accoutre-
when, and ments and Ammunition, in the Months of *July* and *December*, yearly,
Penalties for and every Year, to the Brigadier or commanding Officer of the Brigade
Neglect. to which such Regiment may belong, under the Penalty of *Twenty Pounds*, and shall also make Return in the said Months, of the State of the Magazines of Arms, Accoutrements and Ammunition belonging to his Regiment or Battalion, to the Keeper of the Magazine or Commissary of Military Stores of the State for the Time being, under the Pen-
Of Brigades. alty of *Twenty Pounds* ; and the Brigadier or Commanding Officer of each Brigade shall make Return of his Brigade to the Major-General, in the Months of *January* and *August*, every Year, under the Penalty of *Twenty-five Pounds* ; and the Major-General shall make Returns to the
Of the Whole Governor or Commander in Chief of the State, in the Months of
of the Militia. *February* and *September*, every Year, under the Penalty of *Fifty Pounds* for each Default : Which several Penalties shall be recovered from the Officer whose Duty it was to make the Return, by a Justice of the Peace of the County where the Offender may reside, at the Instance of the Officer to whom the Returns in the above Cases are directed to be made, and paid to the Treasurer of the Regiment within the Bounds of which the Offender may reside.

Officers or 17. AND BE IT FURTHER ENACTED, That if any Field or other
Privates mis- commissioned Officer, or Staff-Officer, at any Regimental Review or
behaving on Company Training, or on any other Occasion, when the Regiment, Bat-
Parade, how talion or Company to which he may belong, or in which he holds Com-
to be punish- mand, is paraded in Arms, shall misbehave or demean himself in an
ed. unofficer like Manner, he shall for such Offence be cashiered or punished by Fine, at the Discretion of a Brigade or Regimental Court-Martial, as the Case may require, in any Sum not exceeding *Ten Pounds* ; and if any non-commissioned Officer or Private shall on any Occasion of parading the Company to which he may belong, appear with his Arms and Accoutrements in an unfit Condition, be found drunk, disobey Orders, or shall use any abusive Language to his Officers, or any of them, or shall engage in or promote Quarrels among his Fellow-Soldiers, he shall be punished by Fine in any Sum not under *Five Shillings* nor above *Three Pounds*, or be disarmed and put under Guard, by Order of the Commanding Officer present, until the Company is dismissed.

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18. AND BE IT FURTHER ENACTED, That if the Colonel or Commanding Officer of any Regiment or Battalion, shall neglect or refuse to give Orders for assembling his Regiment or Battalion, on any necessary Call of the Militia into actual Service, at the Direction of his Brigadier, Colonel or Lieutenant-Colonel Commandant of the Brigade, he shall be cashiered or punished by Fine, at the Discretion of a Brigade Court-Martial, in any Sum not exceeding *Fifty Pounds*, to be recovered and applied as herein after is directed; and if the Captain or Commanding Officer of any Company shall, on any Occasion where it may be necessary as aforesaid, neglect or refuse to give Orders for assembling his Company, at the Direction of the Colonel or Commanding Officer of the Regiment or Battalion to which such Company belongs, he shall be cashiered or punished by Fine, at the Discretion of a Regimental Court-Martial, in any Sum not exceeding *Thirty Pounds*, to be recovered and applied as herein after is directed; and if any Sergeant or Corporal shall neglect or refuse to warn the Company to which he may belong, on any Occasion when it may be necessary, agreeably to the Orders of the Captain or Commanding Officer thereof, he shall be subject to be fined in any Sum not exceeding *Five Pounds*, to be recovered and applied as herein after is directed; and every non-commissioned Officer whilst engaged in warning the Company to which he belongs, shall receive *Three Shillings and Nine-pence* by the Day, for the Time he may be necessarily engaged in said Service.

Disobedience
of Orders for
assembling
Militia, how
to be punished

Wages for
warning the
Company.

19. AND BE IT ENACTED, That the Captain or Commanding Officer of each Company shall at all Times keep a true List of his Company, divided into eight Classes, as nearly equal as possible, and reckoned from one to eight numerically, allotting to each Class a Sergeant or a Corporal, which Classes shall perform Duty in Rotation; a Copy of which List, divided into Classes, the Captain or Commanding Officer of the Company is required to transmit to the Commanding Officer of the Regiment or Battalion, on any Occasion of making a Return of his Company.

Companies to
be classed.

20. AND BE IT FURTHER ENACTED, That where it is not already done, the Colonel or Commanding Officer of each Regiment or Battalion shall immediately call the Officers of the several Companies in his Regiment or Battalion together, and determine the Tour of Duty of the Captains, Lieutenants and Ensigns distinctly, and on any Call of the Militia into Service, the Commanding Officer of the Regiment or Battalion shall order out the Officers in just Rotation, proportioned to the Number of Privates who may appear to march into Service; and the Brigadier or Commanding Officer of the Brigade shall determine the Tour of Duty of the Field Officers, and when Occasion requires, shall order them into Service accordingly.

Tour of Duty
of the Officers
to be deter-
mined.

21. AND BE IT ENACTED by the Authority aforesaid, That it shall and may be lawful for the Governor or Commander in Chief for the Time being, with the Consent of the Legislature when Sitting, and during their Recess with the Advice and Consent of the Privy Council, on Requisition of the Congress of the United States, or upon Application of the Commander in Chief of the Army of the United States, or of any General Officer commanding a Division or Detachment thereof, or of the Executive Power of any of the adjoining States, or on any

Not more
than Half the
Militia to be
ordered out
of the State at
the same
Time.

M

Emergency

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Emergency that may make the same necessary, to order into actual Service into any of the adjoining States, such and so many of the Classes of the Militia as may be necessary, not exceeding four at any one Time, to be drawn alike from the several Companies of such Regiments or Battalions as are to furnish the Detachment, to be officered accordingly.

Governor may order out Half the Militia as Guards.

Proviso.

22. AND BE IT FURTHER ENACTED, That it shall and may be lawful for the Governor or Commander in Chief for the Time being, to call out, station and continue by Reliefs, as a Defence to the State, within the same, such and so many Classes as may be at any Time necessary, not exceeding four, to be arrayed and officered as aforesaid. PROVIDED ALWAYS, That where not more than Half the Militia are called out and embodied, no Detachment shall be continued in Service more than one Month at the same Time.

Governor may order out the whole Militia in case of Invasion, &c.

23. AND BE IT FURTHER ENACTED, That in case of sudden Invasion, Insurrection, Sedition or Alarm by the Enemy or their Adherents, it shall and may be lawful for the Governor or Commander in Chief for the Time being, to call out and array the Whole of the Militia, or such or so many entire Regiments or Battalions situate near to the Place where the same may be required, as he may think necessary to repel the Invasion, and to restore the Peace of the State.

In case of Invasion, &c. Officers of Regiments and Companies to assemble them.

24. AND BE IT ENACTED, That it shall and may be lawful for the Captain or Commanding Officer of any Company, and he is hereby required and commanded to assemble his Company in every such Case, and oppose the Invaders or Insurgents, without waiting for Orders from the Commanding Officer of the Regiment or Battalion to which such Company belongs, and for the Colonel or Commanding Officer of any Regiment or Battalion to assemble his Regiment or Battalion for the same Purpose, without waiting for Orders from his superior Officer. PROVIDED ALWAYS, That every Officer so acting without Orders, shall make Report to his Commanding Officer of his Proceedings in due Form, as soon as possible.

Verbal Notice sufficient.

25. AND BE IT FURTHER ENACTED, That in all Cases where Notice is required to be given to the Militia by this Act, verbal Notice given to the Party himself or left at his usual Place of Abode, with any white Person of Years of Discretion belonging to the Family, by any commissioned or non-commissioned Officer of the Company, shall be deemed legal and sufficient.

Alarm sufficient Notice in some Cases.

26. AND BE IT FURTHER ENACTED, That where any Company shall be under the Necessity, on any sudden Alarm, to retire before the Enemy, and it may be dangerous or impracticable for the Captain or Commanding Officer of such Company to give regular and proper Notice to the Persons belonging to such Company to appear or march against the Enemy or their Adherents, then and in that Case such Alarm shall, without any other Notice, be sufficient Warning, and Delinquents shall be liable to Punishment accordingly.

Officers refusing to march, how to be punished

27. AND BE IT ENACTED, That if any Field or other commissioned Officer, or Staff-Officer shall neglect or refuse to serve in his proper

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Tour of Duty, when a Part only of the Militia is called, or to march immediately with his Regiment, Battalion or Company, when the Whole is called, he shall for each Default be tried by a Brigade or Regimental Court-Martial, as the Case may require; and if convicted, shall be cashiered and rendered incapable of holding any Military Office for one Year, or shall be punished by Fine in any Sum not less than *Ten* nor more than *Fifty Pounds*: And if any non-commissioned Officer or Private shall neglect or refuse to serve in his Tour, or find a sufficient Substitute to serve in his Stead, to be approved by the Captain or Commanding Officer of the Company, or shall neglect or refuse to render Personal Service when the Whole of the Militia are called, he shall for each Default be fined not less than *Five* nor more than *Thirty Pounds*.

Non-commissioned Officers and Privates.

28. AND BE IT FURTHER ENACTED, That if any commissioned or non-commissioned Officer or Private shall at any Time when the Whole or any Detachment of the Militia are called out upon Duty, or before the Expiration of his Tour or the Discharge of his Regiment or Company, leave his Regiment or Company without a Furlough obtained of his superior Officer, if a commissioned Officer, be tried by a Court-Martial, and be cashiered and fined at their Discretion, in any Sum not exceeding *Fifty Pounds*; and every non-commissioned Officer or Private so offending shall, for every such Offence, forfeit all the Pay or other Reward which may be due to him at the Time of his Desertion, and moreover shall be fined in any Sum not exceeding *Fifty Pounds*; and the Commanding Officer of such Detachment is hereby strictly required and enjoined to make Return of such Officer or Private as aforesaid, to the Commanding Officer of the Regiment, Battalion or Company to which he may respectively belong, who is likewise required to proceed against him accordingly.

Officers or Privates departing from Duty without Furlough, how to be punished.

29. AND BE IT FURTHER ENACTED, That all Fines and Forfeitures herein before directed or imposed for the Assessment, Recovery or Application of which no special Provision is made, shall be assessed by the Officers, and recovered and applied in Manner herein after directed; and all Officers empowered to assess Fines and Forfeitures, are likewise empowered to adjudge of and admit reasonable Excuses, in Discharge of the Whole or a Part thereof, always having strict Regard to the Rank, Condition or Estate of the Offender or Delinquent, and the Circumstances of the Offence.

Fines, how to be assessed.

Reasonable Excuses to be admitted.

30. AND BE IT FURTHER ENACTED, That the Colonel or Commanding Officer of each Regiment or Battalion shall hear and decide upon the Reasons assigned by any other Field Officer thereof punishable by Fine, provided such Reasons be offered within ten Days; and the Field Officers of each Regiment or Battalion, or a Majority of them, shall meet at some more convenient Time, not exceeding fifteen Days after any Regimental Training or Review, or after a Call of the Whole or any Part of such Regiment or Battalion into actual Service, if it may be necessary, of the Time and Place of which Meeting timely Notice shall be given to the Parties concerned, by the Direction of the Colonel or Commanding Officer, and shall then and there decide upon the Excuses of the Captains or Commanding Officers of Companies, and Staff-Officers; and the Captain or Commanding Officer of each Company shall hear and determine upon the Reasons offered by any Subaltern.

How Excuses are to be decided upon.

Proviso.

tern Officer thereof for Default, punishable by Fine, provided such Reasons be given within ten Days ; and the commissioned Officers of each Company, or a Majority of them, shall meet at some convenient Time, not exceeding fifteen Days after any Regimental or Company Training, or any Call of a Part or the Whole thereof into actual Service ; of the Time and Place of which Meeting due and seasonable Notice shall be given by Advertisements set up in at least three of the most publick Places within the Bounds of the Company, ten Days before such Meeting, or otherwise as the Commanding Officer may think best, and shall then and there hear and decide upon the Excuses of non-commissioned Officers and Privates. PROVIDED ALWAYS, That if by any unforeseen Circumstances, the Duties herein required cannot be performed within the Times limited, the same shall be performed as soon thereafter as Circumstances will admit.

Fines, how to be recovered.

Fees of levying.

What Goods to be levied upon.

Notice of Sale to be given.

31. AND BE IT FURTHER ENACTED, That when any Fine or Forfeiture is incurred by any Field Officer, other than the Commanding Officer of the Regiment, Staff-Officers, Captains or Commanding Officers of Companies by Virtue of this Act, it shall be recovered by a Warrant from the Colonel or Commanding Officer of the Regiment to which they respectively belong, directed to his Sergeant-Major ; and that when any Fines or Forfeitures are incurred by any Subaltern, non-commissioned Officer or Private, by Virtue of this Act, they shall be recovered by Warrant from the Captain or Commanding Officer of the Company to which they may belong, directed to a Sergeant or Corporal of the said Company ; which Fines and Forfeitures, in case of non-Payment on the first Demand, shall be made by Distress and Sale of the Goods and Chattels of the Offender or Offenders ; and where no Goods can be found whereon to levy, that then and in such Case the said Sergeant or Corporal shall deliver the Delinquent or Delinquents to the Sheriff of the County, or to his Gaol-Keeper, who are hereby required to receive and keep in close Custody the said Delinquent or Delinquents, until the Fines or Forfeitures be fully satisfied ; and the said Sergeant-Major, Sergeant or Corporal respectively, shall receive for each Person specified in the Warrant, on the Recovery of their respective Fines and Forfeitures, the Sum of *Three Shillings and Nine-pence*, to be paid out of the Money arising from the Fines, if under the Direction of the twenty-seventh and twenty-eighth Sections of this Act ; if otherwise, by the Treasurer of the Regiment, on an Order from the Commanding Officer of the Regiment or Company, as Occasion may be, who is hereby required to discharge the same, and take their Receipts therefor.

32. AND BE IT FURTHER ENACTED, That on any Occasion where Distress may be made for any Fine or Forfeiture in Virtue of this Act, on the Goods and Chattels of any Person or Persons delinquent as aforesaid, the Sergeant or Corporal officiating in such Case, shall levy on such Goods as may be pointed out by the Delinquent, or as the said Officer may judge can be best spared, and so much only as may be sufficient to make the Amount of the said Fine, as nearly as may be, and shall, previous to the Sale, give at least five Days Notice thereof, by Advertisements set up in three of the most publick Places within the Bounds of the Company.

33. AND BE IT ENACTED, That the Fines and Forfeitures of the

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Colonel or Commanding Officer of any Regiment or Battalion, shall be demanded and recovered by any Justice of the Peace of the County in which he may reside, at the Instance of any commissioned Officer of the Regiment or Battalion; which Fine, when recovered, shall be paid, after deducting Costs by the said Justice, to the Treasurer of the Regiment.

Fines on Commanding Officers, by whom to be recovered.

34. AND BE IT ENACTED, That the Fines and Forfeitures of Minors, living with their Parents, and others having the proper Care and Charge of them, and those of Apprentices and Servants, shall be paid by their respective Parents, Guardians, Masters or Mistresses, or levied on their Goods and Chattels.

Fines on Minors, &c. by whom to be paid.

35. AND BE IT ENACTED, That no Distress shall be levied on the Arms, Accoutrements or Ammunition of any non-commissioned Officer or Private, unless he shall be possessed of more than are necessary for his own Use and Equipment.

Distress not to be levied on Arms, unless, &c.

36. AND WHEREAS Complaints have been made that too much Rigour and Severity have been used heretofore, in carrying the Militia Law of this State into Execution, and that in some Instances reasonable Excuses have not been properly attended to, whereby many of the good Citizens of this State have been greatly oppressed: BE IT THEREFORE ENACTED *by the Authority aforesaid*, That the several Officers empowered by this Act to hear and decide upon the Excuses of any Delinquent, do, and they are hereby required and enjoined to attend to every just Complaint or Excuse, arising from Inability of Body or Infanity of Mind; and where no Excuses are exhibited, owing to Scruples of Conscience, they are likewise required to make every reasonable Enquiry of the Cases of those who might otherwise apply for Exemption or Relief, and in every Instance where such Matters are committed to their Decision, to act so that Justice and not Severity may characterize those who execute the Laws; and if any Doubt should arise respecting the Health or Validity of any Person, the Officers who are to judge of the same, are hereby authorized to call to their Assistance some skilful Physician or Surgeon, as the Case may require, whose Judgment, certified on Oath, shall be conclusive.

Excuses to be attended to.

37. AND BE IT FURTHER ENACTED, That on the Day of each Regimental Training or Review, the Colonel or Commanding Officer of each Regiment or Battalion shall nominate two Justices of the Peace, residing within the Bounds of such Regiment or Battalion, who, together with any one of the Field Officers of the same, shall constitute a Court for hearing and determining upon Appeals of such Persons as think themselves aggrieved by any Fines or Forfeitures imposed as aforesaid, to continue till the next Regimental Training, and shall fix the Times of their Meeting, which shall be sufficiently advertised through the District of the Regiment or Battalion; and the said Court, or any two of them, shall have Power to moderate or remit any Fine or Forfeiture for just and equitable Reasons, and a Certificate from them, or any two of them, shall enable the Appellant to receive from the Treasurer of the Regiment the Sums so remitted. PROVIDED ALWAYS, That no Appeal be allowed unless the Money be first paid.

Court of Appeals to moderate Fines.

Proviso.

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Doubts re-
specting Age,
how to be
obviated.

38. AND BE IT ENACTED, That in all Cases of Doubt respecting the Age of any Person enrolled, or intended to be enrolled in the Militia, the Party questioned shall prove his Age to the Satisfaction of the Officers of the Company within the Bounds of which he may reside, or a Majority of them.

Persons re-
moving, to
apply for a
Discharge,
&c.

39. AND BE IT FURTHER ENACTED, That every Person enrolled as herein before directed, intending to remove from the Company to which he may belong, into the Bounds of another within this State, shall, previous to such Removal, apply to the Captain or Commanding Officer of the Company from which he is about to remove, who shall give him a Discharge and Certificate, specifying the Time when and how long he was last in Service; which Certificate he shall produce to the Captain or Commanding Officer of the Company into the Bounds of which he shall so remove, within ten Days after such his Removal, and enrol himself accordingly; and if any Person shall neglect to apply for such Discharge and Certificate, and to produce it and enrol himself as aforesaid, he shall forfeit and pay any Sum not exceeding *Five Pounds*, to be recovered by the Captain or Commanding Officer of the Company within the Bounds of which he may remove, in the same Manner and to be applied to the same Uses as other Military Fines; and every Person who may be enrolled agreeably to the Description of this Act, removing from any of the neighbouring States into this State, shall, within ten Days after his coming within the Bounds of any Company into which he may remove, be enrolled by the Captain or Commanding Officer thereof.

Members of
Courts-Mar-
tial, &c. their
Pay.

40. AND BE IT FURTHER ENACTED, That it shall and may be lawful for Officers who may from Time to Time be summoned to attend as Members of Courts-Martial for the Trial of any Offender in Virtue of this Act, to receive Pay and Allowance for Rations, agreeably to their Rank when in actual Service; and all Persons attending on the same as Evidences, shall be entitled to receive the same Pay and Allowance for Rations as Privates whilst in actual Service, to be paid on a Certificate from the President of the Court-Martial, specifying the Number of Days they attended, by the Treasurer of the Regiment within the Bounds of which the Offender may reside.

Commanding
Officers to
administer
Oaths.

41. AND BE IT FURTHER ENACTED, That the Commanding Officer of each Regiment, Battalion or Company within this State, is hereby authorized and empowered to administer an Oath or Affirmation on any necessary Occasion, in the Execution of this Act.

Civil Process,
when not to
be served.

42. AND BE IT FURTHER ENACTED, That no civil Process shall be served on any non-commissioned Officer or Private at any Regimental Review or Company Training, or on his Way to or from the same.

Ferriage.

43. AND BE IT FURTHER ENACTED, That no Officer or Private shall on the Way to or from the Place of any Regimental Review or Company Training, be obliged to pay more than one-third the usual Rate of Ferriage, or be charged any Toll for passing any Toll-Bridge; and if any Ferryman or Keeper of any Toll-Bridge shall presume to refuse a Passage, or make Demand contrary to the Direction of this Act, he shall for each Offence forfeit and pay the Sum of *Three Pounds*,
to

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to be recovered by any Person who will sue for the same, one Half to the Prosecutor, the other Half to be paid by the Justice to the County Collector, for the Use of the State.

44. AND BE IT FURTHER ENACTED, That all Fines and Forfeitures imposed by this Act, except those incurred under the Direction of the twenty-seventh and twenty-eighth Sections of the same, or particularly disposed of by the Section under the Direction of which they may be incurred, shall be paid immediately after the Recovery thereof into the Hands of the Treasurer of the Regiment by the Officer by whose Warrant they were recovered, taking his Receipt for the same: And the Commanding Officer of each Regiment, Battalion or Company, is hereby required to keep an exact Account of all the Fines recovered by him from the Officers or Privates of his Regiment, Battalion or Company, and paid to the Treasurer aforesaid, in a Book kept for that Purpose, which may be produced as a Check on any future Settlement with the Treasurer.

Fines to be paid to the Treasurer.

45. AND BE IT FURTHER ENACTED, That one Half of the Monies arising from the Fines and Forfeitures incurred under the Direction of the twenty-seventh and twenty-eighth Sections of this Act, and recovered from the non-commissioned Officers and Privates of any Company of the Militia, after deducting the Costs of collecting the same, shall be equally divided and distributed by the Commanding Officer of the Company amongst the non-commissioned Officers and Privates of his Company who may have turned out in the Defence of their Country, taking their Receipts respectively for the same, and the other Half shall be paid into the Treasury of the Regiment; and one Half of the Fines and Forfeitures of any Subaltern Officer incurred or recovered as aforesaid, shall in like Manner be distributed among the Subaltern Officers of the Company who have performed the Duty required, and the other Half shall be paid into the Treasury of the Regiment; and the Fines and Forfeitures of Field Officers and Captains shall be paid by the Commanding Officer of the Regiment or Battalion, after deducting the Costs on collecting the same, into the Hands of the Treasurer of the Regiment, taking his Receipt therefor.

And how appropriated.

46. AND BE IT FURTHER ENACTED, That the Colonel or Commanding Officer of each Regiment or Battalion may, and he hereby is authorized and empowered to draw from the Treasury of his Regiment or Battalion, such Sum or Sums of Money as he may from Time to Time find necessary for the Purpose of furnishing the several Companies composing the same with Arms, Accoutrements, Ammunition, Drums and Fifes, and for instructing Drummers and Fifers, so that the whole Amount of the Sums so drawn shall not at any Time exceed one Half the Amount of the Fines and Forfeitures which have been levied within his said Regiment or Battalion; for which Sums the said Commanding Officer shall give his Receipt to the said Treasurer, and remain accountable to the Board of Officers for the Disbursement of the same.

Who to draw Money for Arms, &c.

47. AND BE IT ENACTED by the Authority aforesaid, That the Militia of this State, when in actual Service, shall be subject to the Rules and Articles of War established for the Government of the regular Troops of the United States. PROVIDED ALWAYS, That the Militia shall

Militia subject to the Articles of War.

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Proviso.

shall be tried by Courts-Martial composed of their own Officers only ; and, PROVIDED ALSO, That the Pains and Penalties inflicted by any Court-Martial shall not extend to the taking of Life or Limb, or to any Corporal Punishment, unless in the Cases following ; *That is to say*, Any Officer or Private who shall hold a treacherous Correspondence with, or give Intelligence to the Enemy, or who shall misbehave before the Enemy in Time of Action, or shall desert to them, or shamefully abandon any Post, or who shall speak Words inducing others to offend in any of these Instances, shall, on due Conviction, suffer Death, or such other Punishment as a Court-Martial shall direct.

Pay and Rations.

48. AND BE IT ENACTED, That the Militia whilst in Service shall be entitled to the same Pay and Rations as the regular Forces of the United States ; the said Pay to be drawn from the Paymaster appointed for the County to which they belong, on Payrolls made out on Oath by the Officer commanding the Company or Detachment on Duty.

Penalty on Officers neglecting to pay Monies arising from Fines to the Treasurer.

49. AND WHEREAS it appears that many Officers both Civil and Military, who have collected the Fines and Forfeitures of the Militia heretofore, have been remiss in paying the same into the Hands of the County Collectors as heretofore directed ; BE IT ENACTED, That it shall and may be lawful for every Officer, Civil and Military, and they are hereby strictly required and enjoined to pay any Sums of Money arising from the Fines and Forfeitures of the Militia as aforesaid, and that may yet remain in their Hands, to the Treasurer of the Regiment or Battalion from which the same was collected, under the Penalty of *Fifty Pounds*, to be recovered by the said Treasurer ; one Half of which he shall receive for himself, and the other Half for the Use of the Regiment or Battalion to which he belongs ; and the said Treasurer is hereby authorized and required to make strict Enquiry where any such Fines and Forfeitures have been kept back, and on proper and sufficient Proof of the Fact, to prosecute the said Officer or Officers for any Sum which may appear to remain in his or their Hands, together with the Amount of the Penalty above-mentioned, in any Court where the same may be cognizable, with Costs of Suit.

Account of Purchases, &c. of Arms, to be rendered to the Commissary of Military Stores.

50. AND BE IT FURTHER ENACTED, That *Elias Woodruff*, Commissary of Military Stores, or the Commissary of Military Stores for the Time being of this State, do, and he is hereby authorized and required to call upon all Persons within the same who have heretofore been appointed to purchase Fire-Arms, Accoutrements, and Ammunition, or who have been entrusted with any Fire-Arms belonging to the State, to render an Account of their Purchases and Disposal thereof ; and the Commanding Officer of each Regiment, Battalion or Company, and all other Persons whatsoever who have been entrusted with publick Arms and Accoutrements for the Use of the Militia of this State, are hereby required and enjoined to make a Return of the same to the said Commissary of Military Stores without Delay, that a true State of the publick Magazine may be known.

To whom Application is to be made for Ammunition, &c.

51. AND BE IT FURTHER ENACTED, That the Colonel or Commanding Officer of each Regiment or Battalion in this State shall be, and he is hereby authorized and empowered as often as the same may be necessary, to apply in Person or by Order in Writing under his Hand,

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Hand, to the Commissary of Military Stores of the State for a Supply of Ammunition for his Regiment or Battalion, and to agree with some suitable Person to convey the same from the Magazine for that Purpose, the reasonable Expences of which Conveyance shall be paid by the Treasurer of this State, on an Order and Certificate from the said Commanding Officer to the said Treasurer; and the Commanding Officer of each Regiment or Battalion shall deliver out to the Commanding Officers of Companies the Ammunition so obtained in due Proportion to the Number of Men in each Company.

52. AND BE IT FURTHER ENACTED, That the Troops of Horse-Militia already formed within this State shall be completed and kept up, and that in Addition thereto another Company or Troop of Horse be immediately raised and formed in the Townships of *Woodbridge* and *Piscataway*; and it shall and may be lawful for such of the Inhabitants of the said Townships as are willing and desirous to be embodied and enrolled into the said Troop or Company, to assemble and meet together at a Time and Place to be for that Purpose appointed by the Colonel or Commanding Officer of the Regiment of Foot-Militia to which they at present belong, and then and there by Plurality of Voices to elect one Captain, one Lieutenant, and one Cornet; who upon due Certification of such Election, and their having taken the Oaths of Abjuration and Allegiance as herein before directed in the ninth Section of this Act, shall be commissioned by the Governor or Commander in Chief for the Time being; and the said Inhabitants when so met shall also at the same Time elect four Sergeants and a Trumpeter.

Militia
Troops of
Horse to be
completed
and kept up,
Additional
Troop.

53. AND BE IT ENACTED, That the Establishment of each Troop of Horse shall be a Captain, a Lieutenant, a Cornet, four Sergeants, a Trumpeter, and twenty-nine Privates; and that the Officers shall hold the same Rank respectively with the Officers of the Foot-Militia having like Command.

Establishment
of a Troop of
Horse.

54. AND BE IT FURTHER ENACTED, That each non-commissioned Officer and Private of every Troop of Horse shall at all Times keep himself provided with a good Horse, a Saddle properly furnished with a Pair of Pistols and Holsters, a Cartridge-Box with twelve Rounds of Cartridges sized to his Pistols, a Broad-Sword and Belt, a Cloak which will cover all the Arms and Accoutrements, with such other Articles of Armour and Furniture made in like Form and Manner as are usual and accustomed in the Equipment of Cavalry, and shall also keep at his Place of Abode one Pound of good merchantable Gun-Powder and three Pounds of Ball sized to his Pistols, under the Penalty of forfeiting *Six Pounds* for Want of a Horse, *Thirty Shillings* for Want of the Saddle and Bridle, *Twenty Shillings* for the Want of Pistols or a Broad-Sword, and *Five Shillings* for the Want of any other necessary Article whenever called out to Training or Service.

How to be
accounted.

Penalties.

55. AND BE IT FURTHER ENACTED, That each Troop of Horse shall be under the Command and Direction of the Colonel or Commanding Officer of the Regiment or Battalion within the Bounds of which the Captain or Commanding Officer of such Troop may reside, and shall assemble for Training and Exercise, and in case of Alarm or other Exigency, with such Regiment or Battalion, and in all other Respects,

Horse to be
under the Or-
ders of the
Commanding
Officer of the
Regiment.

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except as is before specified and declared, shall be under the same Regulations with the Foot Militia.

Artillery
Companies
to be com-
pleted and
kept up.

56. AND BE IT FURTHER ENACTED, That the Companies of Artillery already formed agreeably to Law in the several Parts of the State shall be completed and kept up, and their Establishment of Officers and Privates, and also their Equipment, shall be conformable to the Establishment and Equipment of Artillery-Companies in the regular Forces of the United States; and the Officers shall hold the same Rank respectively with the Officers of the other Militia having like Command; and moreover, the Fines and Forfeitures inflicted on the Officers and Privates for any Default shall be recovered and disposed of in like Manner as those inflicted on the regimented Militia.

To be under
the Orders of
the Com-
manding Of-
ficer of the
Regiment.

57. AND BE IT FURTHER ENACTED, That each Company of Artillery shall be under the Command and Direction of the Colonel or Commanding Officer of the Regiment or Battalion within the Bounds of which the Captain or Commanding Officer may reside, and shall assemble with the same as is herein before directed with Respect to the Troops of Horse, and in all other Respects shall be under the same Regulations with the Companies of the other Militia, as far as Circumstances will admit.

Who may not
enter himself
of a Troop of
Horse, &c.

58. AND BE IT FURTHER ENACTED, That no Minor, Apprentice, or Servant shall be allowed to enter himself into any Troop of Horse or Company of Artillery without the Consent of those under whose Government, Care or Direction, such Minor, Apprentice, or Servant may be; and generally no Person who is not able to provide himself with the Furniture and Equipment of a Horseman shall be allowed to enter himself into any such Troop.

Allowance for
Rations.

59. AND BE IT FURTHER ENACTED, That the Troops of Horse belonging to the Militia of this State, when in actual Service, if at any Time they should be so situated as to make it impracticable to draw Rations or Forage for their Horses, shall be entitled to receive *One Shilling and Three-pence* per Day in Lieu of Rations or Forage for each Horse; and if any of the Militia of this State, when in actual Service, should be so situated as to make it impracticable to draw Rations, they shall receive the Sum of *One Shilling and Three-pence* per Day for each Ration they may be entitled to respectively, to be paid by the Paymaster of the County to which they may belong, on a Return made out and certified on Oath by the Officer commanding the Company or Detachment on Duty, containing a List of the Mens' Names, the Time they were on Duty, and Number of Rations each was entitled to.

Repealing
Clause.

60. AND BE IT FURTHER ENACTED, That the Act, intituled, *An Act for regulating, training, and arraying of the Militia*, passed the fourteenth Day of *April*, One Thousand Seven Hundred and Seventy-eight, except the repealing Clause therein, and the several supplemental Acts thereto, be, and they hereby are repealed.

Passed at Trenton, January 8, 1781.

C H A P.